

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT TACOMA

INVENTIST, INC.,

Plaintiff,

v.

NINEBOT, INC., et al,

Defendants.

Case No. 3:16-cv-5688-BJR

ORDER RE: SETTLEMENT
CONFERENCE WITH UNITED
STATES MAGISTRATE JUDGE

This matter comes before the Court on U.S. District Judge Barbara J. Rothstein's order referring this case to the undersigned for settlement purposes. Dkt. 189.

Accordingly, the Court orders as follows:

The parties are directed to appear for a Settlement Conference to be held by videoconference, via Zoom Conference before the United States District Court for the Western District of Washington at Tacoma. The Conference will start at 9:00 AM PST on Tuesday, July 11, 2023, and will conclude no later than 3:00 PM PST. The Court will provide the parties with instructions to access the Zoom Conference separately from this Order. The required settlement memoranda, more fully described below, are due no later than 12:00 PM PST on July 10, 2023.

Persons with ultimate settlement authority must be personally present at the settlement conference or readily available by phone.

1 Participation of parties at the settlement conference – being present by video on
2 Zoom – is likely to increase the efficiency and effectiveness of the settlement
3 conference. **All parties shall participate in the Zoom Conference with counsel.** A
4 request to be exempt from this requirement should be submitted to the Court in writing
5 no later than noon, PST, on Friday, July 7, 2023. Please address any request to Anna
6 Mendoza, Judicial Law Clerk to Magistrate Judge Fricke, at
7 anna_mendoza@wawd.uscourts.gov. The email subject line should include your case
8 number and “Request for non-appearance of a party.”

9 Parties not appearing in person by video shall be available by phone and email
10 (including the ability to review documents and sign) for the duration of the settlement
11 conference.

12 Any counsel appearing without authority to negotiate, or without the ability to
13 readily contact the person with full and ultimate settlement authority throughout the
14 settlement conference, may be sanctioned.

15 Other people who may increase the probability of settling the case should be
16 present, if possible. For example, the attendance of an expert may be helpful. Counsel
17 assisting the client on related matters may need to be involved. At the very least,
18 contact information should be available for them at the conference.

19 The Court encourages plaintiff to make a settlement demand on or before 5:00
20 PM PST on July 7, 2023. and defendant is directed to respond to any such demand on
21 or before 5:00 PM PST on July 10, 2023.

22 Each party shall provide, **in confidence**, a concise settlement memorandum **no**
23 **longer than ten double spaced pages and which should not include attachments**

1 **or exhibits unless under extraordinary circumstances.** Please do not file these
2 confidential memoranda with the Clerk's Office or serve the memoranda on opposing
3 counsel. Each party's confidential memoranda shall include a brief description of:

- 4 1. any liability disputes;
- 5 2. facts you believe you can prove at trial;
- 6 3. the monetary value at issue in the case;
- 7 4. the major weaknesses in each side's case, both factual and legal;
- 8 5. the history of settlement negotiations thus far;
- 9 6. the party's settlement position;
- 10 7. the major obstacle(s) to settlement as you perceive it;
- 11 8. reference (by docket number) to any pending motions that would have a
12 significant effect on settlement for the Court to review prior to settlement;
- 13 9. special issues that may have a material bearing upon settlement discussions;
14 and
- 15 10. any person(s) (with a description of their position or role) you plan to bring to
16 the settlement conference.

17 In setting forth your settlement position, please do not limit your discussion to
18 arguments on the merits of your case. For the Court and the parties to be successful in
19 the limited time provided for this settlement conference, you should provide the Court
20 with a clear and candid understanding of your and your client's actual evaluation of the
21 interests, value, and monetary aspects that your client is most concerned about in any
22 potential settlement of this case and an idea of terms under which you believe the case
23 should settle.

1 The memorandum shall include the case number, case name, and should be
2 emailed directly to Magistrate Judge Fricke, by sending an email to Judicial Law Clerk,
3 Anna Mendoza at: anna_mendoza@wawd.uscourts.gov. The email subject line should
4 read: **“Confidential – Inventist, INC. v. Ninebot, INC. et al, – July 11, 2023 –**
5 **[Defendant/Plaintiff’s name] Settlement Position Paper.”** Do not mail hard copies of
6 the settlement memorandum to chambers.

7 Counsel for the parties may be contacted by the Court to answer questions,
8 clarify issues, and discuss other preliminary matters designed to ensure the conference
9 is productive. Counsel may contact the Court by sending an email to Judicial Law Clerk
10 Anna Mendoza at: anna_mendoza@wawd.uscourts.gov if counsel would like to request
11 an appointment with Magistrate Judge Fricke to address any matter they believe needs
12 to be discussed in advance, including any request to use exhibits, technology-assisted
13 presentations, or conduct lengthy opening statements.

14 It is the duty of the parties to notify the Court if trial is continued or if the case is
15 settled or otherwise disposed of prior to the date of the scheduled settlement
16 conference, so that the matter may be removed from the Court’s docket.

17 In the time immediately preceding the settlement conference, if either party
18 believes that negotiation attempts would not be fruitful at the conference on July 11 for
19 any reason, that party should contact the Court as soon as possible to discuss the
20 concern. Counsel for the parties are strongly encouraged to engage in preliminary
21 discussions with an eye toward meaningfully narrowing their disputes before appearing
22 for the Conference.

1 The Court expects that each participant will be well-prepared, open-minded, and
2 sincerely interested in achieving settlement. To encourage open communication, the
3 Court orders that all matters communicated in connection with this judicial settlement
4 are confidential and not to be used for any other purpose.

5 Dated this 5th day of July, 2023.

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9 Theresa L. Fricke
10 United States Magistrate Judge
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